

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-cv-23171-DAMIAN

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

ARBITRADE LTD, *et al.*,

Defendants.

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ORDER ON DEFAULT FINAL JUDGMENT PROCEDURE

THIS CAUSE is before the Court upon a *sua sponte* review of the record. On March 17 2023, the Clerk of Court entered a default as to Defendant SION Trading FZE. *See* ECF No. 73. Upon review of the record, it appears that Defendant SION Trading FZE has indeed failed to respond to the Complaint or otherwise appear in this action. Accordingly, it is

ORDERED that Plaintiff must file one of the following two responses by **April 1, 2024**:

(1) Where there is only one Defendant, or where there are multiple Defendants,¹ but no allegations of joint and several liability, and no possibility of inconsistent liability between Defendants, Plaintiff shall file a *motion for default final judgment*.

¹ If there are multiple Defendants, Plaintiff must state in the *motion for default final judgment* that there are no allegations of joint and several liability and set forth the basis why there is no possibility of inconsistent liability.

The *motion for default final judgment* must include affidavits of any sum certain due by Defendants, and any other supporting documentation necessary to determine Plaintiff's measure of damages. The *motion* shall also be accompanied by (1) the necessary affidavit under the Servicemembers Civil Relief Act, 50 U.S.C. § 3931(b), if applicable; (2) a proposed order; and (3) a proposed final judgment. (These last two are required by Local Rule 7.1(a)(2)). Pursuant to the CM/ECF Administrative Procedures, the proposed orders **shall be submitted to the Court by e-mail in Word format** at *damian@flsd.uscourts.gov*. Plaintiff shall send a copy of the *motion* to Defendants' counsel, or to Defendants if they do not have counsel. In the certificate of service, Plaintiff shall indicate that notices were sent to Defendants and the addresses where the notices were sent.

If Defendants fail to move to set aside the Clerk's Default or respond to the *motion for default final judgment* within the time permitted by the Rules, default final judgment may be entered, which, simply put, means that Plaintiff may be able to take Defendants' property or money, and/or obtain other relief against Defendants.

(2) Where there are multiple Defendants and allegations of joint and several liability, or the possibility of inconsistent liability between Defendants, Plaintiff shall file a *notice of joint liability*. See *Frow v. De La Vega*, 82 U.S. 552, 554 (1872); 10A Charles Alan Wright and Arthur R. Miller, *Federal Practice and Procedure* § 2690 (4th ed. 2021) (citing *Frow*, 82 U.S. at 554); see also *Gulf Coast Fans, Inc. v. Midwest Elecs. Imp., Inc.*, 740 F.2d 1499, 1512 (11th Cir. 1984).

The *notice of joint liability* must briefly describe the allegations and advise the Court of the status of the other Defendants' liability. Once liability is resolved as to all Defendants,

Plaintiff may move for the entry of default final judgment against Defendants, as described in (1) above, no later than 14 days thereafter.

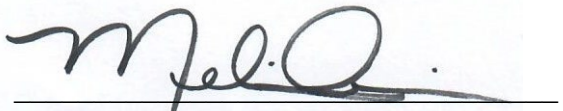
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Plaintiff's failure to file for a *motion for default final judgment* or *notice of joint liability* within the specified time will result in a **dismissal** without prejudice as to this Defendant.

DONE AND ORDERED in the Southern District of Florida this 25th day of March, 2024.


MELISSA DAMIAN
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record